

BMA

**The Government offer to stop
strikes and end the current
pay dispute for the consultant
workforce in England**



British Medical Association
bma.org.uk

Introduction

For many years, the BMA has been lobbying Government and submitting detailed evidence to our pay review body, the Review Body on Doctors and Dentists Remuneration, (the DDRB), outlining the extent to which consultant pay has fallen since the start of austerity and the devastating impact that this has had, and continues to have, on recruitment and retention. We have also highlighted the catastrophic impact this has had on NHS performance and how it has directly contributed to the increasing waiting lists, which were at record levels long before the pandemic.

The fact that our pay had fallen so significantly was a direct consequence of the DDRB, which no longer operates in a way that allows it to make independent recommendations on pay. Indeed, since the start of austerity, for a period of seven years, the Government directly constrained the DDRB by imposing a cap of either 0% or 1% to doctors pay, despite inflation running significantly higher than this. In more recent years, whilst they haven't directly capped the pay awards, awards have been severely limited by affordability

constraints and the Government's inflation target. These considerations were imposed by the Government both in the engagement or remit letters at the very start of the process and in the terms of reference of the DDRB.

In addition, for many years consultants have been suffering from the impact of punitive pension taxation policies that meant consultants faced huge additional tax bills or had little option but to reduce hours or retire early.

Despite extensive lobbying from both the BMA Consultants Committee and the BMA Pensions Committee, our concerns continued to be ignored. Therefore, a year ago, the BMA consultants Committee launched its campaign to Fix Pay, Fix Pensions and Fix the DDRB.

What has followed has been a landmark year for consultants in England. The Government's failure to adequately address our concerns resulted in consultants taking strike action for the first time in nearly four decades. And it saw consultants take

three further rounds of action, two of which were combined with our junior doctor colleagues.

This was not an easy decision for many consultants but your decision to take action has been incredibly effective. The indicative ballot helped the BMA Pensions Committee secure vital reforms to pension taxation in March and led to tentative discussions with Government around a pay offer and DDRB reform. At every stage, your action, whether it has been in the form of the overwhelming mandate you gave us in the statutory ballot in June or the successive rounds of striking, has made a real difference and has moved the Government and forced them to acknowledge our demands.

Since April, the Government have come forward with three offers, each one an improvement on the last. Each offer was reviewed in detail by your representatives on the BMA Consultants Committee and each time, it was felt they were inadequate and had to be rejected. This was on the basis of the proposed pay awards being well below the level of inflation, there being insufficient reform of DDRB and too many concessions being sought from us. For context, it should be reiterated that consultant take-home pay has fallen by over 35% since 2008/9 compared to the retail prices index and over 26% compared to the consumer prices index.

The BMA Consultants Committee have always been committed to restoring our pay but have recognised from the outset that this could not be achieved within a single year. The long term mechanism for achieving pay restoration is to ensure that we have a pay review body that has been restored to its founding principles. This means a DDRB that can not only make truly independent recommendations on pay but is

empowered to look at the impacts that pay erosion has had on recruitment and retention and address this accordingly.

At a minimum, therefore, we were seeking a pay award that was above inflation and meaningful DDRB reform to enable the DDRB to continue the process of restoring pay over the coming years. The urgency of DDRB reform was laid bare this year given that the current DDRB made a pay recommendation of 6% for doctors at a time when CPI inflation was 8.7% and RPI inflation was 11.4%.

Throughout November, the BMA Consultants Committee have been in intense negotiations with Government. These negotiations resulted in a further offer. This time, it was felt that there had been sufficient progress and movement against on our initial aims to justify the offer being put to you for your consideration.

This document outlines the various elements of the offer that you will be considering. We are also aware of some misinformation circulating on social media that we aim to correct.

Increase to pay

There has been an uplift applied to the consultant pay scales already for 2022/23. This uplift was 6% and was in line with the current DDRB's recommendation. For context it is worth remembering that in its remit letter to the DDRB, the Government wrote "*As described during last year's pay round, the NHS budget has already been set until 2024 to 2025*". They added that "*in the current economic context, it is particularly important that you also have regard to the Government's inflation target when forming recommendations*".

In February, in its evidence to the DDRB, the Government wrote "*funding is available for pay awards up to 3.5% for the relevant staff groups within DDRB remit this year*"

In this context, other groups of NHS staff agreed a 5% uplift for 2022/23 and without your action, it is likely that consultants would have received an award of 5% or less in 2022/23.

However, even a 6% pay award was clearly sub-inflationary and your Consultants Committee was clear that this was not acceptable. The Government claimed that this 6% award was final, but your strike action has changed this, and the Government have now offered additional investment.

The key features of the pay deal are:

- 3.45% of additional investment
- 1.5% funding that will be redeployment from the new Local Clinical Excellence Awards (LCEAs) which will be scrapped from April 2024. Although this money is already part of the pay bill, it is non-consolidated, non-pensionable and has not been uplifted in line with inflation for several years.

This provides an additional 4.95% uplift. It has been agreed this would be best utilised to reform the current pay scales. It is also important to note that this investment will be in addition to the 6% pay award that has already been applied in 2023/24 and in addition to the pay award that would apply for 2024/25.

Modernisation of the current consultant pay scale

There are very significant problems with the current pay scale design and it has been our policy to reform these for some time. The current pay scale was identified as a significant contributor to the gender pay gap and, due to the long time it takes to reach the top of the scale, means that younger consultants are paid significantly less than older consultants, despite in many cases fulfilling the same role for the majority of their career. The current structure also works poorly for a career averaged pension scheme which all members are on as of April 2022.

The key changes proposed to the pay scales are:

- A reduction in the length of time it takes to reach the top of the pay scale from 19 years to 14 years. This will ensure younger and future consultants reach the top of the scale sooner.
- A reduction in the number of pay points in the pay scale from 8 to 4. There is no justification for 8 “promotional pay points” within the consultant grade and having fewer pay points will also enable faster progression through the middle of the scale, again benefitting younger and future consultants.

- An increase to starting pay. The starting pay will increase to just under £100,000 which represents an increase of 12.6% compared to the 2022/23 level.
- An increase to pay at the top of the pay scale. This is arguably the most important pay point as it is the one that consultants will spend the longest portion of their career on, especially if the time to reach the top is shortened, and its value is incredibly important from both a final salary and CARE pension perspective.

If the offer is accepted, BMA’s hope is that this is just the first phase of pay scale reform and that these proposed changes would be part of larger and ongoing conversation around further reducing pay points and the time it takes to reach the top of the pay scale.

When considering the value of this investment it is important to note that because this funding is being used to reform the pay scales, the initial investment is not applied evenly.

There has been concern raised about a particular group of consultants in years 4-7 who do not receive anything additional to the 6% they have already received as part of this offer. There have been suggestions that this is “divisive” or even that it is “pulling up the ladder”. The concerns of those consultants in years 4-7 are understandable, and the BMA is disappointed that not all consultants receive something extra immediately as part of this offer. We were not able to secure the additional investment that would have enabled this. However, by reforming the pay scales, the intention is that any uplift is not just felt this year or next, but that there is long-term meaningful change to the way consultants progress through the pay points, to overall remuneration and to consultants’ pensions.

It is not the case that younger or future consultants have been disadvantaged. The whole purpose of this reform was to make the pay structure fairer from an age and gender perspective. The aim, instead, is that consultants coming through will benefit from significantly faster progression, something that older consultants who are at the top pay point for example won’t benefit from. This faster progression would have a very significant impact on overall lifetime earnings.

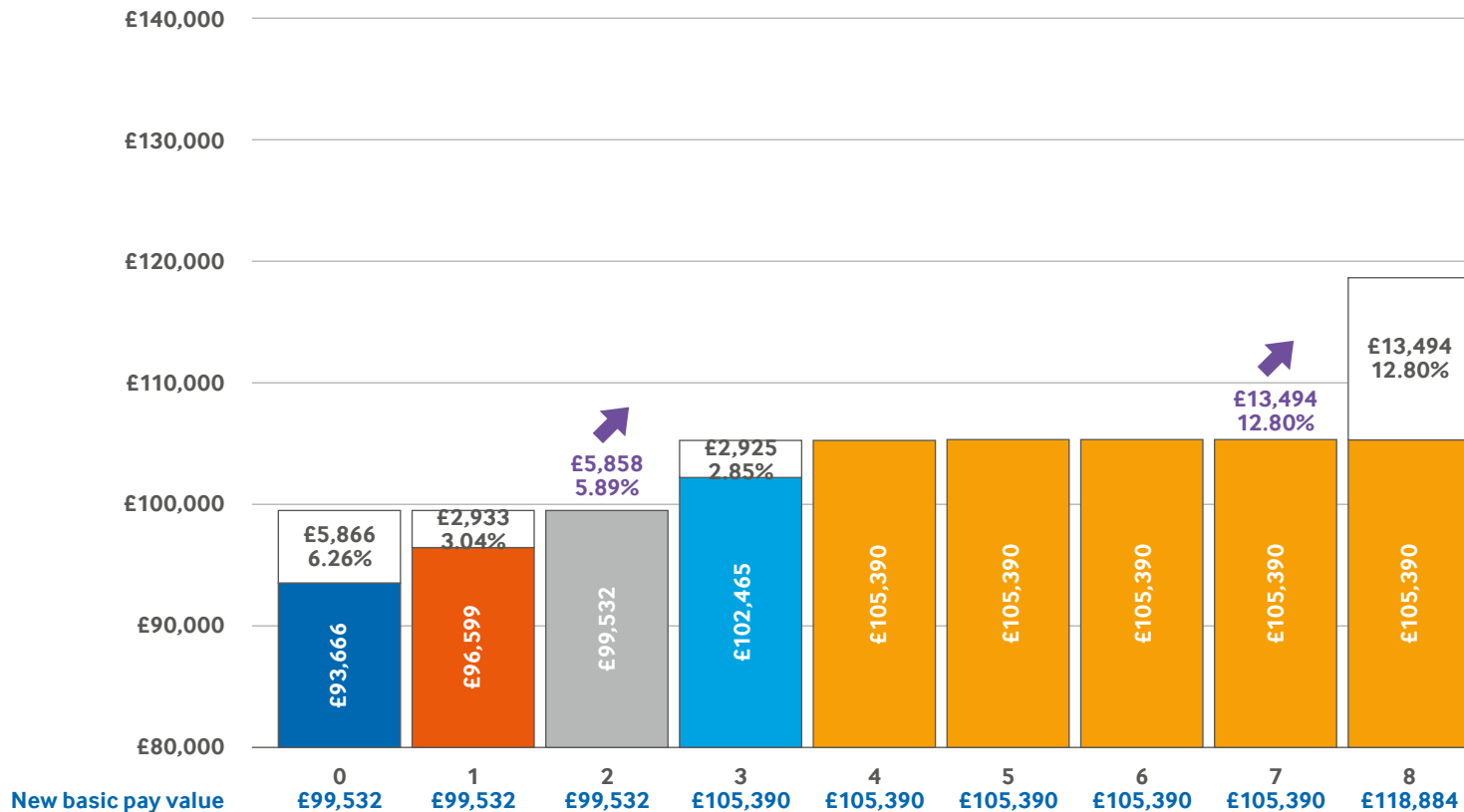
It is also worth noting that under these proposals a person that has completed 3 years as a consultant in April 2024, will be receiving the same level of pay as a consultant with 13 years experience was receiving in March 2023. Similarly, a consultant with 8 years completed in April 2024, will receive almost the same level of pay as a consultant who was at the top of the scale in March 2023. In addition to this, they would benefit from the accelerated pay progression by being at the highest pay point for longer than older colleagues.

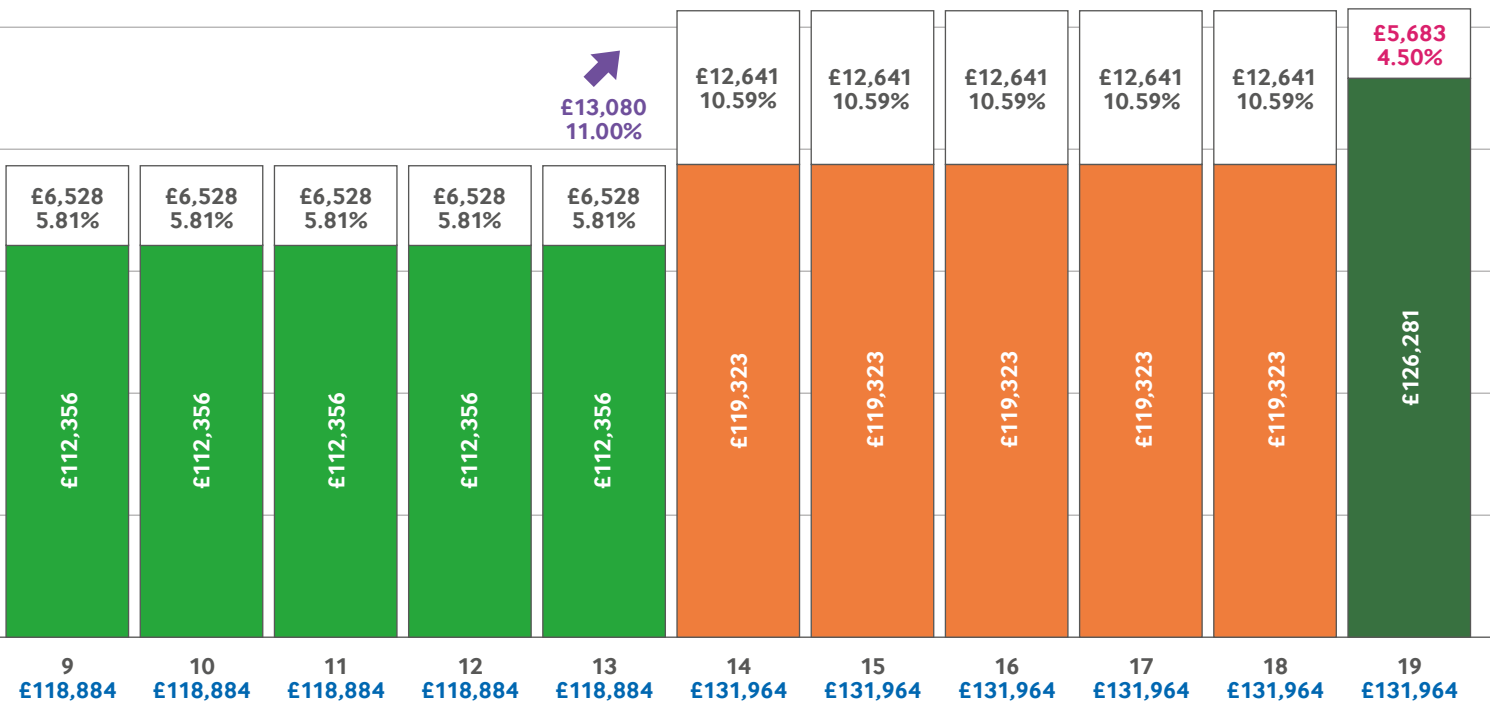
Under this proposal, the pay scale reforms will be implemented from April 2024 but would be retrospectively applied from 1st January 2024. This means that the full effect of the investment will not be seen in 2023/24 (and therefore the effective pay uplift will be lower) but, as this is a consolidated payment, the full effect will be seen in 2024/25 and will be recurrent in future years.

In addition, there will be loss of new local CEAs. In recent years, these have been equally distributed to eligible consultants but the majority of trusts were planning to move to competitive rounds in 2024. Receipt of a CEA could therefore not be guaranteed and the main reason that a national agreement on a new scheme could not be reached was that the BMA were concerned that the scheme would continue to be divisive and inequitable.

It is also important to note that the exact amount of additional pay you will receive in 2022/23 and in some cases 2023/24 will depend on your incremental date. The BMA have created a tool that will help you better understand what this pay award means for you specifically.

Reform adjustments to the 23/24 basic pay structure





Pay progression

As part of the modernisation of the pay scales, Government sought to review the current pay progression criteria. Contrary to what may be perceived, progression through the current pay scales is not automatic and there is a current schedule, Schedule 15 of the terms and conditions of service, that outlines the current arrangements. Schedule 15 sets out the necessary criteria that must be met and, under the current contract, the decision as to whether these criteria are met lies with the Chief Executive, informed by the medical director. Most of the proposals in this offer are already captured within Schedule 15 but there are some additional requirements.

If the offer is accepted, the new pay progression arrangements would apply from April 2024 but any additional pay that resulted from the changes would apply from the 1st Jan 2024.

The following principles on which progression is based have been agreed with Government. It is the expectation that consultants will be able to progress through these gateways by meeting the

performance criteria and there is no intention to unreasonably restrict pay progression.

- Progression cannot be withheld due to financial or other non-performance related issues. Withholding progression shall not be used as a means to coerce a consultant into agreeing a proposed job plan.
- Consultants should be given the appropriate time and resource to meet the pay progression criteria.
- Where a doctor disputes a decision that they have not met the required criteria to progress to the next pay point, the mediation procedure and the appeal procedure set out in the terms and conditions should be followed.
- Where a criterion has not been achieved for reasons beyond the consultant's control, the consultant will not be prevented from progressing onto the next pay point if the other criteria have been met.
- Trusts must make every effort to ensure the performance gateway process is fair and in line relevant equalities legislation as well as

with NHS' Medical Workforce Race Equality Standard (MWRES) and Equality and Diversity and inclusion improvement plan: <https://www.england.nhs.uk/long-read/nhs-equality-diversity-and-inclusion-improvement-plan/>.

Employers should engage in equalities monitoring of pay progression outcomes.

- If a doctor is absent from work for reasons such as parental or sickness leave when pay progression is due, the principle of equal and fair treatment should be followed so that no detriment is suffered as a result.

The proposed criteria to be satisfied are (the new criteria under the proposal have been **highlighted**):

- **Job Planning:** Participated satisfactorily in the job planning process (taking into account arrangements relating to mediation and appeals in accordance with Schedule 4) including: making every reasonable effort to meet the time and service commitments in their job plan and participated in the annual job plan review.
 - Setting and meeting personal objectives in

the job plan, or where this is not achieved for reasons beyond the doctor's control, made every reasonable effort to do so.

- Working towards any changes agreed in the last job plan review as being necessary to support achievement of joint objectives.
- **Appraisal:** Participated satisfactorily in the medical appraisal in accordance with the GMC's requirements set out in "Good Medical Practice".
- **Statutory & Mandatory Training (SMT):** Engaged and participated in employing organisation's mandatory training or, where this is not achieved for reasons beyond the doctors' control, made every reasonable effort to do so.
 - This is new addition to the criteria. However it is important to note that this is already a contractual requirement following amendments to the *Employment Relation Act* and will typically be set out and included in the employment contract.

- **Extra programmed activities and spare professional capacity:** Taken up any offer to undertake additional Programmed Activities that the employing organisation has made to the consultant in accordance with Schedule 6 of these Terms and Conditions; In line with the provisions of schedule 6 of the 2003 consultant TCS.
- **Provisions governing the relationship between NHS work, private practice and fee-paying services:** Met the standards of conduct governing the relationship between private practice and NHS commitments set out in Schedule 9.
- **Service/quality improvement:** Demonstrated effective use and impact of SPA time in order to generate service improvements, this can include training and teaching.
 - This is a new addition and would typically include evidence of quality improvement work that may be completed as part of appraisal. If consultants are not given

sufficient SPA time or resources, as per the principles above, progression cannot be withheld.

- **No disciplinary sanctions live on the doctor's record:** 'Disciplinary sanction' refers to sanctions in relation to conduct only, and excludes warnings applied in relation to absence due to ill health. It refers to formal disciplinary sanctions such as formal warnings. It does not include investigations, informal warnings, counselling or other informal activities that may come within a disciplinary policy.

If a disciplinary sanction is in place at the time of the pay progression date and is subsequently repealed, for example as a result of a successful appeal, the pay progression will be backdated to the pay progression date if all other requirements have been met.

There are processes already in place as part of the Maintaining High Professional Standards (MHPS) in the NHS framework regarding the

process around disciplinary sanctions which would apply here.

– **No formal capability process in place:**

‘Capability process’ will be as set out in the organisation’s local policy for applying Part 4 of Maintaining High Professional Standards (MHPS) on which the Joint Local Negotiating Committee has been consulted and covers processes for dealing with lack of competence, including professional and clinical competence, and clear failure by an employee to achieve a satisfactory standard of work through lack of knowledge, ability or consistently poor performance.

‘Process’ means that there has been an outcome following an investigation which places the employee in a formal capability process (or as otherwise defined in local policy). Investigations, informal stages and processes for dealing with absence due to ill health are all excluded from this pay progression standard.

If a capability process is in place at the time of the pay progression date and is subsequently repealed, for example as a result of a successful appeal, the pay progression will be backdated to the pay progression date if all other requirements have been met.

- The disciplinary and capability sections don’t currently form part of schedule 15 but are already part of the “Maintaining High Professional Standards” collective framework. If breaches of these were to take place, progression could be withheld under current arrangements, but the proposed wording provides further clarity, if for example a complaint is not upheld.

What does this mean for you

Comparing offer with current 23/24 DDRB awards

	BASIC PAY ANALYSIS					
Government offer compared to current 23/24 payscale	23/24 including backpay	24/25	Five year (24/25 – 28/29)	Ten year (24/25 – 33/34)	Lifetime (24/25 – retirement aged 60)	Average increase (24/25 – retirement aged 60)
0 years consultant						
£ increase	£1,467	£2,933	£5,858	£32,408	£172,027	£6,371
% increase	1.6%	3.0%	1.2%	3.1%	5.3%	5.3%
4 years consultant						
£ increase	£0	£0	£20,022	£58,775	£166,169	£7,225
% increase	0.0%	0.0%	3.8%	5.3%	5.8%	5.8%
7 years consultant						
£ increase	£0	£13,494	£39,606	£96,698	£166,169	£8,308
% increase	0.0%	12.8%	7.1%	8.4%	6.6%	6.6%
14 years consultant						
£ increase	£3,160	£12,641	£56,247	£84,662	£107,394	£8,261
% increase	2.6%	10.6%	9.3%	6.9%	6.2%	6.2%
21 years consultant						
£ increase	£1,421	£5,683	£28,415	£39,781	£39,781	£6,630
% increase	1.1%	4.5%	4.5%	4.5%	4.5%	4.5%

Comparing offer with 22/23 payscales

		BASIC PAY ANALYSIS					
Government offer compared to 22/23 payscales	23/24 including backpay	24/25	Five year (24/25 – 28/29)	Ten year (24/25 – 33/34)	Lifetime (24/25 – retirement aged 60)	Average increase (24/25 – retirement aged 60)	
0 years consultant							
£ increase	£6,769	£8,401	£34,690	£91,855	£355,804	£13,178	
% increase	7.7%	9.2%	7.2%	9.3%	11.6%	11.6%	
4 years consultant							
£ increase	£5,965	£5,965	£50,242	£121,189	£327,079	£14,221	
% increase	6.0%	6.0%	10.0%	11.6%	12.2%	12.2%	
7 years consultant							
£ increase	£5,965	£19,459	£71,011	£161,479	£309,184	£15,459	
% increase	6.0%	19.6%	13.6%	15.0%	13.0%	13.0%	
14 years consultant							
£ increase	£9,914	£19,395	£90,411	£154,566	£205,890	£15,838	
% increase	8.8%	17.2%	15.9%	13.3%	12.5%	12.5%	
21 years consultant							
£ increase	£8,569	£12,831	£64,155	£89,817	£89,817	£14,970	
% increase	7.2%	10.8%	10.8%	10.8%	10.8%	10.8%	

Case study 1

NB: this is simply a write-up of the consultant 14 years in the table

Ahmed is a psychiatrist who has completed 14 years as a consultant. He is currently 45 years old. He works full time, on 10 PAs (Programmed Activities) per week. Currently he does no on-call. Currently, without the offer, he is on at threshold 7 of the pay scale, earning £119,323 per year.

As a result of the offer, he will be moved onto the new pay scale at threshold 4, which means he will earn £131,964 per year in basic pay, which will apply from the 1 January 2024. He will receive a backdated pay award of £3,160 in his April 2024 pay packet. In total, including the backpay and his higher salary under the offer, he will earn an additional £15,801 in 2024/25, an increase of 13.2%. In addition, this is likely to be further increased because of the 2024/25 DDRB pay award – although future pay awards because of a reformed DDRB are not included in this analysis.

Not considering future pay awards, over the next 5 years, his pay will be £56,247 or 9.3% higher as a result of the offer than it would have been without the offer. Across a 10-year period, it will be £84,662 higher or 6.9% higher. Over his lifetime, assuming he retires at 60 and continues to work full time until then, he will be £107,394 better off as a result of the offer in terms of pay, or 6.2% better off. In addition, his higher pay will lead to a higher value pension when he retires.

This is in addition to the 6% pay increase already provided for 23/24 as part of the DDRB process. Taking the offer and the already awarded 23/24 DDRB award, Ahmed will be 12.5% better off in earnings over his lifetime¹ as a result of combined pay uplifts in 23/24, compared to 22/23 pay scales, if this offer is accepted.

Case study 2

NB: this is based on 0-year consultant, but with an additional on-call pay supplement.

Emily is a radiologist. She is a new consultant, as of April 2023. She is currently 32 years old. As she is a new consultant, she is on threshold 1 of the current pay scale. This gives her basic pay of £93,666 but she is also required to participate in an on-call rota, which often involves coming in and performing emergency procedures. For this, she also receives a medium frequency (5%) on-call availability supplement, and her actual gross pay is currently £98,349 without the offer.

As a result of the offer, she is moved onto the new pay scale at threshold 1, which with her on-call supplement is £104,509 (as the on-call supplement is a percentage of basic pay, the increase in basic pay increases the supplement as well). This will apply from 1st January 2024, but is paid in arrears in April 2024, when she will receive £1,540 backdated pay. In addition, in 24/25 she will continue to remain on threshold 1 of the new pay scale – still £104,509. Without the offer, she would move up

to threshold 2 of the old pay scale as she would have been a consultant for more than a year, but that would mean her pay would only have been £101,429. In total, including the backdated pay, she will be 4.6% better off in 24/25 (not counting the backdated pay, she will be 3.0% better off).

Over a five-year period, she will be 1.2% better off under the new pay scale. Over a ten-year period, she will be 3.1% better off. And over her lifetime earnings, she will be 5.3% better off, assuming she retires at 60.

In addition, her higher pay will lead to a higher value pension when she retires.

This is in addition to the 6% pay increase already provided for 23/24 as part of the DDRB process. Taking the offer and the already awarded 23/24 DDRB award, Emily will be 11.6% better off in earnings over her lifetime, as a result of combined pay uplifts in 23/24, compared to 22/23 pay scales, if this offer is accepted.

Case study 3

NB: this is based on 7-year consultant but working less than full time – 0.6 of full time. This example also has no backdated pay because there is no immediate change to basic pay as a result of the deal in current financial year – 23/24.

Phoebe is an anaesthetist. She has been working as a consultant for the last 7 years and has now decided to work less than full time and is working 6 PAs (60% of full time). She does no on-call.

Phoebe is 38. Currently, she is on threshold 5 of the consultant contract pay scale, so her current pay is £63,234. Her progression anniversary is 1st April, so without the offer she will only progress to the next threshold 6 on 1st April 2025.

As a result of the offer, she will be moved in the new pay structure to threshold 2, which is paid the same as her current pay. However, she will move to threshold 3 on her progression anniversary on 1st April 2024, a year earlier than she would have progressed to the next threshold without the offer. This means as a result of the offer, her annual pay from April 2024 will be £71,330. Her total earnings

are 12.8% higher in 24/25 than they would be without the offer. Over the next 5 years, her total pay will be 7.1% higher than it would be without the offer, and across her lifetime (assuming she continues to work part time and retires at 60), it will be 6.6% higher.

In addition, her higher pay will lead to a higher value pension when she retires.

This is in addition to the 6% pay increase already provided for 23/24 as part of the DDRB process. Taking the offer and the already awarded 23/24 DDRB award, Phoebe will be 13.0% better off in earnings over her lifetime pay as a result of combined pay uplifts in 23/24, compared to 22/23 pay scales, if this offer is accepted.

More case studies and illustrations as to how the offer impacts consultants can be found on the BMA website.

BMA rate card

During the negotiations it was clear that NHS Employers and Government wished the rate card to be withdrawn and it was a condition of entering negotiations that we did not promote the rate card or update the rates. This position continues whilst we are consulting on this offer. If members agree to this offer, the BMA has agreed to withdraw the rate card with immediate effect. However, we reserve the right to re-introduce the BMA rate card for consultants if there is a future industrial dispute.

We are very conscious that some groups of employers collaborate on arrangements for securing extra contractual consultant work. Where this is happening, there is an expectation that this should be done in consultation with those employers' Joint Local Negotiating Committees.

The Consultant Committee first introduced the rate card for consultants in England and this was subsequently rolled out to other groups of doctors and also across the other nations. We therefore relinquish this reluctantly but it is vital that consultants are aware that taking on extra-contractual work remains their choice and they should always value their time appropriately. This includes when covering junior doctor colleagues. Furthermore, when it comes to performing scheduled work in premium time or being resident oncall, there has been no change to the contract and such work still requires mutual agreement.

Shared parental leave

As part of this deal, a new provision, which is in line with that which has been enjoyed by other NHS staff members for some time, will be introduced to provide enhanced shared parental leave. The following terms will be introduced:

A consultant working full-time or part-time will be entitled to paid and unpaid shared parental leave and pay if:

- i. they have 12 months' continuous service with one or more NHS employers at the beginning of the 11th week before the expected week of childbirth, or at the beginning of the week in which they are notified of being matched with a child for adoption, or by the 15th week before the baby's due date if applying via a surrogacy arrangement;
 - ii. they notify their employer of their wish to take shared parental leave and provide a minimum of eight weeks' notice, through the submission of a booking notification form or other local process, which will confirm:
 - a. their intention to take shared parental leave;
 - b. the date(s) they wish to access shared parental leave (noting that two weeks compulsory maternity or adoption leave must be taken by the mother or primary adopter before they can access shared parental leave);
 - c. that they intend to return to work with the same or another NHS employer for a minimum period of three months after their shared parental leave has ended;
 - d. that the mother or primary adopter has returned to work following maternity or adoption leave, or has provided the binding notice confirming that they intend to bring their maternity or adoption leave and pay entitlements to an early end.
- iii. they confirm that the other parent meets the statutory "employment and earnings test" by being an employed or self-employed earner in the UK for a total of 26 weeks (not necessarily continuously) in the 66 weeks preceding the week the child is due to be born or matched for adoption. The individual must have earned at least an average of £30 (gross) a week in 13 of those 26 weeks (not necessarily continuously). This amount can be amended from time to time by the Secretary of State.

Local Clinical Excellence Awards (LCEAs)

LCEAs have long been a source of division (previous BMA surveys have found that the profession is split equally between those who support them and those who don't). In very recent years, largely as a result of Covid, many employers have scrapped LCEA rounds and simply shared the pot among eligible consultants. Whilst that has proved popular, the majority of trusts were planning a return to competitive rounds from April 2024. It has long been the desire of the Consultants Committee to scrap this divisive scheme and redeploy this money into basic pay. In doing so, the value of this investment will become more valuable as it will become consolidated and therefore subject to pay uplifts and become pensionable.

As funding for LCEAs is being redeployed into remuneration, the contractual entitlement to access an annual awards round will cease. This will take effect from 1st April 2024. Any multi-year non-consolidated awards issued since April 2018 will not be impacted.

Consolidated LCEAs awarded prior to reform in 2018 will be retained and these awards shall remain pensionable and consolidated. The value of these awards will be frozen. The review process for these awards will be removed. Funding released through the future attrition of consolidated LCEAs will not be reinvested.

The reason for consolidated CEAs remaining in payment is that consultants will have paid pension contributions and in many cases annual allowance tax on them and almost certainly have a legal right to retain them (the BMA brought a legal challenge in 2015 when the government tried to remove them which was ultimately settled out of court). The renewal process was scrapped as there was no new LCEA scheme to recycle the money into. The BMA was concerned that trusts would undertake aggressive renewals processes in order to generate a financial saving.

There is an ongoing area of concern surrounding the interaction between the new National Clinical Excellence Awards and the current CEA schedule (Schedule 30) particularly in relation to existing National Clinical Excellence Awards holders. There is also the continuing issue of ensuring that Academics have contractual access to the schedule. The BMA sought to resolve these issues as part of this offer. Unfortunately, this was not possible but NHS Employers have written to us with a commitment to discuss these separately.

Supporting professional activities

Towards the end of the negotiations, we discussed the value of SPA time and how some employers have failed to recognise the value that SPA time can deliver. By working on joint guidance in the near future with Government and NHS Employers, there is an opportunity to secure more SPA time for consultants. In order to achieve that, a balance must be struck with the Government's wish to deliver on its long-term projects.

We are aware that there was some misleading information on the NHS Employers website relating to SPA time when this offer was first announced. This was very unhelpful but we raised this immediately with Government and a clarification letter was sent to us within 24 hours. The text of that letter is reprinted below which summarises what was agreed and addresses some of the misunderstandings which followed:

The Government and NHS Employers, together with BMA and HCSA, recognise the importance of SPA time and the vital role that consultants play in service re-design and improving the quality of care that patients receive. The wording in the document is designed to take the current language regarding SPA time and offer a small expansion to make it clear that SPA time can, with agreement, be used to support service and quality improvement work in key NHS priority areas. We have provided some examples within the offer of the type of work that this can include.

However, we have been clear throughout that this is not a means for employers to seek to reduce SPA time for consultants and it does not permit employers to convert SPA into Direct Clinical Care.

We have also been clear that current usages of SPA time, as per the definition within the contract, remain valid. There is no intention to ignore or reduce these other priorities.

This proposal would not change the current contractual provisions in relation to SPA time and, if the offer is accepted, we will instead work together with you and HCSA to develop appropriate guidance.

We have, as requested, clarified the content on this element of the offer on the NHS Employers website as you made us aware this has caused concern amongst your members. We are sorry for this confusion.

Changes to the operation of the Doctors and Dentists Review Body (DDRB)

In January 2023, the BMA published its report into the DDRB and made a number of recommendations. These were:

- The DDRB’s independence must be restored in line with its original purpose
- Governments of the UK must no longer send remit letters to control the pay review process
- Appointments to the DDRB must be made in consultation with representatives of the medical and dental professions
- Governments of the UK must undertake to respect and promptly implement the DDRB’s recommendations
- There must be clear and enforceable timetables for the pay review process to which all parties must adhere
- The DDRB should publish its report independently
- The reformed DDRB must be empowered to correct for pay losses caused by the current constrained pay review process

- The DDRB’s remit should be limited to remuneration but encompass pensions as a key component of pay

These recommendations were supported by the BMA and BDA and formed the basis of the Consultant Committee’s negotiators’ positions in the negotiations.

As part of the offer, the Government has agreed to making several changes to address some, but not all, of these points. If the offer is accepted, the Government will work with the BMA to implement the changes set out below in time for the 2025/26 year.

The first key area that we could not address as part of this offer were an agreement with the Government to jointly commission the new DDRB to undertake a thorough review of consultant pay and specifically take into account the impact of pay erosion that has happened since 2008 in relation

to recruitment and retention. It was clear that the Government was not willing to commit to this and this remains an area of concern.

However, we have argued that not only is there nothing in the current terms of reference preventing the DDRB from taking into account the impact of pay losses in recruitment and retention, that in fact their terms of reference specifically directed them to do so. The second concern was that whilst there has been progress on specific language, the inclusion of 'affordability' remains within the DDRB terms of reference. This was not something that the original Royal Commission directed the future DDRB to have "regard to" as ultimately the Government had the power to accept, reject or modify the recommendations.

As set out below, a number of the proposed reforms address the recommendations made in the January report. Whether these changes have gone far enough to enable the DDRB to continue the process of restoring consultant pay is up to you to consider.

The key changes/principles are:

– **The process for appointing DDRB members**

– It is agreed that the members of the DDRB must be people of eminence and authority with a broad range of appropriate experience. The parties will work together to determine how relevant unions can feed in views on the role profile and potential candidates during the recruitment process in future recruitment rounds to ensure their suitability, in particular through a representative participating at the sifting stage. The Government will also increase the compensation available to members of the DDRB ensuring it continues to attract the appropriate calibre of appointee. The Government is open to codifying the background of DDRB members.

– **Remit letters and terms of reference**

– Remit letters will not include information about inflation and wider economic performance, which will instead be addressed through Government evidence. The terms of

reference will be refreshed, guiding the PRBs in making their recommendations to consider a range of additional factors, affecting attraction, recruitment and retention, including the specific labour market for consultants and encompassing local and regional factors and international comparators, with the aim of ensuring delivery of high-quality healthcare to patients. The Government agrees to refer to “wider economic factors” rather than the inflation target in the terms of reference. See below for how this will appear in the existing bullets in the current ToR.

- **The timetable for the pay round process**
 - The parties will agree a timetable which would see awards announced earlier than in recent years and which the Government would use its best endeavours to meet. As part of this, the Government will look to implement the outcome of each year’s DDRB process as soon as practically possible, with the aim of the pay award being known at the start of the financial year from the 2025/26 pay round.

- **The data submitted in Government’s evidence to the DDRB** – The parties will identify ways to reduce the duplication of data provided to the DDRB, and ensuring this data offers the best possible picture of the prevailing economic conditions and prices, as well as wages in the wider economy, and the impact of pensions on recruitment and retention.

DDRB for the 2024/25 pay round

If the offer is accepted, the Government will make clear in its evidence to the DDRB for 2024/25 that there should be a headline pay award for consultants and the Government will not suggest that the level of this award should be below awards for the wider public sector as a result of the negotiated settlement on pay scale reform.

In principle, this should mean that the 2024/25 pay award should not be in anyway downgraded as a result of consultants receiving an ‘additional’ 2023 pay award.

Pensions

A key part of restoring pay is to ensure that we restore the value of pensions. When considering pay scale reform we needed to consider the impact both for those with predominantly final salary pension and those with predominantly CARE pension. The proposed pay scale design was developed with these considerations in mind.

People may rightly be concerned about the impact of pay rises and whether this will trigger an annual allowance tax charge. Whilst this cannot be avoided entirely, especially for those nearer the top of the scale who typically have higher accrued final salary membership, the changes announced at the budget in March 2023 go some way to mitigating this.

There is a particularly high opening value uplift (10.1%) applied to the value of your pension in 2023/24 and a moderately high uplift (6.7%) applied in 2024/25. The opening value is uplifted by these figures (in line with the level of CPI from the September of the preceding year) to enable your pension to grow with inflation before it is tested for the annual allowance. In effect, this means that you

can receive a larger than “typical pay rise” before it is assessed against the annual allowance.

Secondly, following the budget changes, not only has the annual allowance increased to £60,000, some technical changes mean that you can now offset negative growth from your 1995 scheme against positive growth in the 2015 scheme. As well as this, the value of inflation applied to the opening value is effectively aligned with the value of inflation used for the revaluation.

The net impact of this is that whilst some may have AA charges that can't be avoided, this is a better time than in recent years to get higher pay rises.

There are some additional points on which we are seeking clarification. The timing of any “backpay” is important as this should ideally be paid before March 31st 2024 to ensure that it falls both in the correct pension year for pension growth purposes and to avoid falling in the 2024/25 tax year as this may result in more consultants crossing the taper threshold. We will update you once there is greater clarity on this.

BMA stance on the offer

The BMA Consultants Committee received three unsatisfactory offers before this fourth offer but this was the first that that your consultants committee felt had enough merit that it could be put to you, our members, to make a decision. There is no doubt that the reason we have seen improvement on the previous offers is due to your collective strike action.

We cannot give an overall positive or negative steer on the offer as a whole due to the varying implications for different consultants. There are elements we feel are positive and address our aims, and there are elements where, we would have liked to make greater progress. We understand that there will be many different perspectives on the benefits of this offer, and that some of this will be dependent on where you are in your career. What we can do is provide you with as much as information as possible to help you make an informed decision. This is why we have prepared resources and tools that will provide you with a clear sense of what this offer could mean for you.

It is important that all consultants consider the impact of the potential outcomes of the referendum. If the overall vote is yes and to accept the offer, and the result is endorsed by the Consultants Committee, we will move to agree to the necessary changes for these proposals to be implemented in April, with any additional pay being payable from 1 January 2024.

If the overall vote is no, we will of course aim to renegotiate a better offer. However, it is very likely that further strike action will be required to move the Government move and secure further improvements. It is essential therefore, that if you reject this offer that, you are personally prepared to take further strike action should the BMA need to call it.

Please take the time to carefully and deliberately consider this choice. Please make use of the materials provided to you, and please keep an eye on our live resources which will continue to be updated with answers to FAQs.

